UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION FIVE

WASHINGTON SHUTTLE, INC D/B/A SUPERSHUTTLE WASHINGTON, D.C.

Employer

and Case 05-RC-112829

UNITED FOOD AND COMMMERCIAL WORKERS, LOCAL 1994, MCGEO

Petitioner

REQUEST FOR REVIEW

Now comes Petitioner, the United Food and Commercial Workers, Local 1994, MCGEO (herein "Petitioner" or the "Union"), by and through undersigned counsel and hereby files a Request for Review of the Decision and Order issued by the Regional Director for Region Five on November 27, 2013.

In that decision, regional director found that all approximately 125 the shuttle drivers proposed to be included in the bargaining unit sought by the Petitioner servicing National and Dulles Airports were supervisors within the meaning of Section 2(11) of the Act. The employer had contended that the drivers were independent contractors and not employees. Should the Employer's argument be accepted that the drivers were in fact supervisors, they would have be employees as opposed to independent contractors because they would have to have an employer. Thus, the decision is by its very nature,

defective. The Regional Director made no finding as to the number of relief drivers allegedly supervised by shuttle drivers but there are substantially fewer relief drivers than shuttle drivers sought to be included in the unit. Such a finding results in a situation where there are far more supervisors than there are employees. Again this finding fails to adhere to Board's long standing general principles related to using the ratio of supervisors to enployees as one of the criteria to be considered in determining the composition of bargaining units. In this case, the Regional Director, despite no evidence to support such a finding ruled that not a single shuttle driver could be included in a unit. In finding that the shuttle drivers were supervisors within the meaning of Section 2(11) they would have to be employees of the employer acting on its behalf supervising other non-supervisory employees of the employer.

The issues in this case it's been litigated throughout the United States and there have been different findings by different Regional Directors throughout the country. The Regional Director has made this finding based upon his finding in an earlier filed case seeking the exact same unite. The Petitioner filed a Request for Review in that matter which had been pending for well more than a year without a decision. Rather than waiting for a decision from the Board on the appropriateness of the unit, the case was withdrawn by the Petitioner so that they could have an election therefore rendering the decision in that case we moot and irrelevant to this proceeding. The cases in which the Board has found these identical drivers to be employees has been cited in the record as has virtually all of the briefs and documents from the prior cases. Of note is the Board's finding that the BWI taxi drivers, who are working in a nearly identical working environment have been found to be employees with meaning of the Act. Rather than

repeat the arguments previously made, the Petitioner believes that the record is sufficient and includes Petitioners' arguments that these drivers are employees within the meaning of the Act.

For the foregoing reasons, the Petitioner respectfully requests that the Board grant Review and overrule the Regional Director's finding that the proposed unit was not appropriate and direct an election in the petitioned for unit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing Request for Review was sent both electronically and by United States mail to Patrick Scully, Esq., Karla Sanchez and Sarah Pierce, at Sherman & Howard, 633 17th Street, Suite 3000, Denver, Colorado 80202; Charles M. Watkins, Esq. Webster, Chamberlain and Bean, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006; Christopher A. Parlo, Esq., and Russell Burch, Esq., Morgan. Lewis & Bockius, LLP, 1011 Park Avenue, New York, NY 10178 and at Morgan Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, N.W. Washington, D.C. 20004.

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